

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

EARL BRANTLEY,

Plaintiff,

vs.

9:12-CV-1051
(NAM/RFT)

BRIAN FISCHER, Commissioner of New York State
Department of Corrections and Community Supervision;
CARL KOENIGSMANN, Chief Medical Officer Division of
Health Services New York State Department of Corrections
and Community Supervision; JOSEPH BELLNIER,
Superintendent of Marcy Correctional Facility; B. HILTON,
Deputy Superintendent for Office of Mental Health; MARK
KINDERMAN, Deputy Superintendent for Programs at
Marcy Correctional Facility; DR. K. VADLAMUDI, Marcy
Correctional Facility Health Services Director; SANDRA
MARTIN-KARAS, Nurse Administrator of Marcy
Correctional Facility; JANE DOE # 1 (AKA "KAREN"),
Regional Health Services Director for New York State
Department of Corrections and Community Supervision,

Defendants.

APPEARANCES:

OF COUNSEL:

Earl Brantley
09-A-2742
Marcy Correctional Facility
P.O. Box 3600
Marcy, NY 13404
Plaintiff, Pro Se

Hon. Eric T. Schneiderman
New York State Attorney General Assistant Attorney General
The Capitol
Albany, NY 12224
Attorney for Defendants

Charles J. Quackenbush, Esq.

NORMAN A. MORDUE, SENIOR U. S. DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge
Randolph F. Treece, duly filed on the 13th day of September 13, 2013. Following fourteen (14)

days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby accepted and adopted in its entirety.
2. Defendants' Motion to Dismiss (Dkt. No. 12) is GRANTED in part and DENIED in

part, as follows:

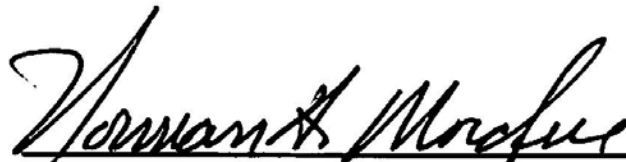
- a. granted without prejudice as to Plaintiff's conditions of confinement and First Amendment retaliation claims against all Defendants;
- b. granted without prejudice as to Plaintiff's deliberate medical indifference claim against Defendants Fischer, Koenigsmann, Kinderman, and O'Donnell;
- c. granted as to Plaintiff's deliberate medical indifference claim against Defendants Vadlamudi, Hilton, Bellnier, and Martin-Karas.

3. Plaintiff is directed to file an amended complaint in accordance with the Report-Recommendation (Dkt. No. 21). Such amended complaint should be filed on or before October 31, 2013. If Plaintiff files an amended complaint, the file shall be returned to Magistrate Judge Treece for review. If Plaintiff opts not to file an amended complaint on or before October 31, 2013, Defendants Fisher, Koenigsmann, Kindermann, and O'Donnell will be terminated from this action without further order of the Court.

3. The Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: September 30, 2013


Norman A. Mordue
Senior U.S. District Judge